

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

CYNTHIA ORAVECZ, Individually and on Behalf of All Others Similarly Situated,)	Case No.: 12-CV-1308
)	
)	CLASS ACTION COMPLAINT
Plaintiff,)	
vs.)	
)	Jury Trial Demanded
GC SERVICES LIMITED PARTNERSHIP,)	
)	
Defendant.)	
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INTRODUCTION

1. This class action seeks redress for collection practices that violate the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”).

JURISDICTION AND VENUE

2. The court has jurisdiction to grant the relief sought by the Plaintiff pursuant to 15 U.S.C. § 1692k and 28 U.S.C. §§ 1331 and 1337. Venue in this District is proper in that Defendant directed its collection efforts into the District.

PARTIES

3. Plaintiff Cynthia Oravec (formerly Wiseman) is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

4. Plaintiff is a “consumer” as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that Defendant sought to collect from her a debt allegedly incurred for personal, family or household purposes.

5. Defendant GC Services Limited Partnership (“GC Services”) is a debt collection agency with its principal place of business located at 6330 Gulfport, Houston, Texas 77081.

6. GC Services is engaged in the business of a collection agency, using the mails and telephone to collect consumer debts originally owed to others.

7. GC Services is engaged in the business of collecting debts owed to others and incurred for personal, family or household purposes. GC Services is a debt collector as defined in 15 U.S.C. § 1692a.

FACTS

8. On or about February 16, 2012, GC Services mailed a debt collection letter to Plaintiff regarding an alleged debt, allegedly owed to Citibank, N.A. A copy of this letter is attached to this complaint as Exhibit A.

9. Upon information and belief, Exhibit A is a form letter, generated by computer, and with the information specific to Plaintiff inserted by computer.

10. Upon information and belief, Exhibit A is a form debt collection letter used by GC Services to attempt to collect alleged debts.

11. Exhibit A contains the following text:

“By this time you must realize that you are delinquent.”

12. The text identified in paragraph 12 is misleading, and its natural consequence is to harass, oppress, or abuse the recipient.

13. The term “delinquent” has different meanings when applied to a person or when applied to a financial account. A delinquent account is merely one that is unpaid and overdue.

14. The term “delinquent” applied to a person, however, is associated with criminality and dishonesty.

15. Because GC Services’ letter calls the recipient consumer, instead of the alleged account, “delinquent,” the unsophisticated consumer reading GC Services’ letter would believe that GC Services is accusing him or her of criminal behavior and/or dishonesty.

16. The Seventh Circuit has held that language implying dishonesty or criminality can violate the FDCPA. *McMillan v. Collection Professionals, Inc.*, 455 F.3d 754, 762-63 (7th Cir. 2006).

17. The FDCPA prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt,” and specifically prohibits “[t]he false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.” 15 U.S.C. §§ 1692e, 1692e(7).

18. The FDCPA also states:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

15 U.S.C. § 1692d(2).

COUNT I – FDCPA

19. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

20. The statement on Exhibit A that: “By this time you must realize that you are delinquent” is a false, deceptive, and/or misleading representation to the unsophisticated consumer.

21. Exhibit A falsely represents to the unsophisticated consumer that consumer, rather than the alleged debt, is “delinquent.”

22. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

23. 15 U.S.C. § 1692e(7) specifically prohibits “[t]he false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.”

24. 15 U.S.C. § 1692e(10) specifically prohibits the “use of any false representation or deceptive means to collect or attempt to collect any debt.”

25. GC Services violated 15 U.S.C. §§ 1692e, 1692e(7) and 1692e(10).

COUNT II – FDCPA

26. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

27. The natural consequence of the statement on Exhibit A that: “By this time you must realize that you are delinquent” is to harass, oppress, or abuse the recipient.

28. The unsophisticated consumer’s understanding of the term “delinquent”, applied to a person, is that the person is a criminal and/or dishonest.

29. GC Services violated 15 U.S.C. §§ 1692d and 1692d(2).

CLASS ALLEGATIONS

30. Plaintiff brings this action on behalf of a Class, consisting of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter that included the text: “By this time you must realize that you are delinquent”, (c) seeking to collect a debt for personal, family or household purposes, (d) on or after December 26, 2011, (e) that was not returned by the postal service.

31. The Class is so numerous that joinder is impracticable. On information and belief, there are more than 50 members of the Class.

32. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members.

The predominant common question is whether the Defendant complied with 15 U.S.C. § 1692e, 1692e(7), 1692e(10), 1692d and 1692d(2).

33. Plaintiff's claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

34. Plaintiff will fairly and adequately represent the interests of the Class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

35. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

JURY DEMAND

36. Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendant for:

- (a) actual damages;
- (b) statutory damages;
- (c) attorneys' fees, litigation expenses and costs of suit; and
- (d) such other or further relief as the Court deems proper.

Dated: December 26, 2012

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